

**EXHIBIT A**

To Notice of Filing of Notice of Removal

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**  
—Southern Division—

EVA ASABRE  
5834 White Lake Lane, Apt. 206  
Frederick, Maryland 21703

Plaintiff,

v.

RETAIL SERVICES & SYSTEMS, INC.,  
d/b/a TOTAL WINE & MORE  
6600 Rockledge Drive, Suite 150  
Bethesda, Maryland 20817

Defendant.

Civil Action No. \_\_\_\_\_

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**DECLARATION OF BART THORNBURG**

1. I am over the age of 18 and competent to testify from personal knowledge as to the matters set forth in this Declaration.

2. I am employed by Retail Services & Systems, Inc. ("RSSI") as a Sr. Director in the Marketing Department. The Marketing Department provides marketing services to more than 220 Total Wine-branded stores in 26 different states, which are operated by separate but affiliated legal entities that sell alcoholic beverage products to consumers. Only two of those stores are located in Maryland.

3. I supervise a small team in RSSI's Marketing Department that is dedicated to providing marketing support for affiliated Total Wine stores. Among other things, my team communicates via email with members of the Total Wine & More customer loyalty program which is now known as "&MORE Rewards" (the "Total Wine Loyalty Program") in the states and store locations where the Total Wine Loyalty Program is administered. The Total Wine Loyalty

Program allows members to earn points when they shop in Total Wine stores, which can be converted into discounts on further purchases and other perks, depending upon the member's status or tier. We also communicate via email regarding events that occur in Total Wine stores and offer Total Wine Loyalty Program members the opportunity to receive discounts on some of the products sold in Total Wine stores.

4. I have reviewed the allegations at paragraphs 15 to 19 of the Complaint in this action, which describe certain "Subject Emails" that Plaintiff alleges she received from RSSI beginning in December 2019 and ending on November 29, 2021. Plaintiff did not attach copies of the Subject Emails to the Complaint. Although Total Wine does not retain exact copies of emails sent to Plaintiff or other members of the Total Wine Loyalty Program, persons who work with me in the Marketing Department, acting under my direction, were able to reconstruct the subject lines and content of the Subject Emails that were sent to Plaintiff using records that are maintained by RSSI in the regular and ordinary course of its business.

5. We maintain a database that includes various information regarding members of Total Wine's Loyalty Program. According to our business records, Plaintiff was initially enrolled in the Loyalty Program on August 23, 2015, Loyalty Card Number xxxxxxxxx4508. As a member of Total Wine's Loyalty Program, she consented to receive emails from RSSI, on behalf of participating Total Wine stores, describing products and discount offers made available to members. Her current preferred store shopping location is the Total Wine store in Laurel, Maryland (known as Store #402), which is located in Anne Arundel County.

6. We have identified from our database available emails that we believe were sent to the Plaintiff since October 8, 2018 (the last date when email records were available) including the subject lines of each email. As noted, it would not be feasible to retain copies of the actual email

offers sent to all Total Wine Loyalty Program members, but we were able to retrieve from our database and computer systems metadata associated with the artwork, images, and text used to create the emails that we sent to Plaintiff. Using those business records, we were able to create mockups of the five Subject Emails that we sent to Plaintiff.

7. Copies of the Subject Emails, as recreated by my team, are attached to my Declaration as Exhibits A(1)-A(5). The format of email changed over time. The emails that include coupons also bear an alphanumeric reference that is unique to each loyalty member (e.g., on the email dated December 6, 2019, below the bar code, the string of letters and numbers “AOKDY7KM” that follow “3232” are unique to the Plaintiff). While my team made every effort to accurately recreate the Subject Emails based upon metadata and other information available to us in our computer systems and database, there could be minor differences between the mockups and how the emails appeared to Plaintiff.<sup>1</sup> Nevertheless, I believe that they are fair and accurate representations of the substance of the emails that we would have sent to the Plaintiff on the dates referenced in paragraphs 15 to 19 of the Complaint, with one possible exception. The Complaint indicates that an e-mail with a particular subject line, “3 Days Only: 20% off Wines from Europe,” was sent on December 16, 2019, while our records suggest that an e-mail with that subject line was sent on December 6, 2019. *See* Compl. ¶ 15; *compare* Ex. A(1) attached hereto. It may be that the referenced date of December 16 in the Complaint is a typographical error.

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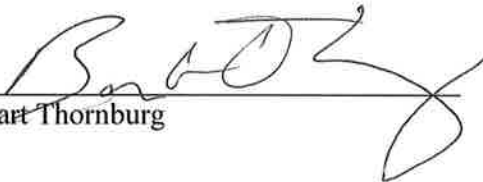
<sup>1</sup> For example, the date- and time-stamps on Exhibits A(1)-A(5) represent when I believe the Subject Emails were sent but not when they were received. The time of receipt can vary by several hours depending upon factors over which the sender has no control. Also, the Plaintiff’s loyalty points and rewards balances reflected in Exhibits A(1)-A(5) are correct as of January 12, 2022, the date when our team undertook to recreate the Subject Emails, and do not necessarily reflect the balances at the time the emails were sent. Our systems do not enable us to see a member’s past loyalty account balances.

8. During the period relevant to the claims and allegations raised in the Complaint, RSSI transmitted more than 10,000 e-mails to loyalty members with subject lines and content similar or identical to the Subject Emails, other than differences based on information specific to the recipient, such as the customer's name, e-mail address, preferred store, and loyalty program member number.

9. More than two-thirds of these e-mails were sent to persons whose addresses or preferred store locations on file with RSSI are located in U.S. states other than Maryland.

10. These e-mails were sent to more than 100 persons.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 19, 2022.

  
Bart Thornburg

**EXHIBIT A(1)**

To Declaration of Bart Thornburg

Friday, December 6, 2019 at 12:19:00 Eastern Standard Time

**Subject:** 🌐 3 Days Only: 20% off Wines from Europe!  
**Date:** Friday, December 6, 2019 at 12:19:00 PM Eastern Standard Time  
**From:** Total Wine & More  
**To:** evaca24@gmail.com



Wine | Beer | Spirits | Accessories & More

SEE MY ACCOUNT | MY MEMBER #:8971308684508

\$0

Waiting For You

5,000<sup>PTS</sup>

Until Next Reward

SELECT

Current Status

ENDS SUNDAY

WINERY DIRECT®

20% Off

Mix 6 or more Winery Direct® Wines from France, Italy, Spain, Portugal, Austria and Germany

Shop now

WINERY DIRECT COUPON | ONE-TIME USE

Valid in-store and online | Valid 12/06/2019 - 12/08/2019



20% off Mix 6 or more 750ml and 1.5L Winery Direct® Wines from France, Italy, Spain, Portugal, Austria and Germany

Excludes items with prices ending in 7. Cannot be combined with any other Total Wine & More coupon or discount. Valid on 750ml and 1.5L Winery Direct® wines. Coupon valid in Laurel, MD only. Valid in-store and online. Not valid on previous purchases. Offer valid through 12/08/2019. Must present coupon at time of purchase. Offer intended for people of legal drinking age only. **Drink responsibly — be 21.**



3232A0KDY7KM

ONLINE  
CODE:  
3232

IN-STORE  
PLU:  
3232

TRY IN-STORE PICKUP TODAY

Preferred Store: MD - Laurel

Phone: (301) 617-8507

[View Email on Web](#) | [Contact Us](#) | [Privacy Policy](#)

[Update Your Profile](#) | [Unsubscribe](#)

PLEASE DRINK RESPONSIBLY AND USE A DESIGNATED DRIVER. Not responsible for typographical errors, human error or supplier price increases. Products while supplies last. We reserve the right to limit quantities. **Drink Responsibly – Be 21**

**Corridor Fine Wine is independently owned and operated.**

To ensure delivery to your inbox, please add [totalwine@email-totalwine.com](mailto:totalwine@email-totalwine.com) to your address book.

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**EXHIBIT A(2)**

To Declaration of Bart Thornburg

**Subject:** YOUR COUPON ENDS SUNDAY: Save 15% on Top Wines

**Date:** Saturday, March 14, 2020 at 09:27:00 AM Eastern Standard Time

**From:** Total Wine & More

**To:** evaca24@gmail.com



Wine | Beer | Spirits | Accessories & More

SEE MY ACCOUNT | MY MEMBER #:8971308684508

*&more*  
rewards

\$0

Waiting For You

5,000<sup>PTS</sup>

Until Next Reward

SELECT



Current Status

ENDS SUNDAY

WINERY DIRECT®

# 15% OFF

Mix 6 or more 750ml, 1.5L and  
Boxed Winery Direct® Wines

Shop now



**WINERY DIRECT COUPON | ONE-TIME USE**

Valid in-store and online | Valid 03/13/2020 - 03/15/2020

WINERY DIRECT®

*Look for  
these signs  
and save*

**15% OFF WINE**

**Save 15% when you mix 6 or more 750ml, 1.5L and Boxed Winery Direct Wines**

**Excludes items with prices ending in 7.** Cannot be combined with any other Total Wine & More coupon or discount. Valid on 750ml, 1.5L and Boxed Winery Direct wines. Coupon valid in Laurel, MD only. Valid in-store and online. Not valid on previous purchases. Offer valid through 03/15/2020. Must present coupon at time of purchase. Offer intended for people of legal drinking age only. **Drink responsibly — be 21.**



3840A0KDY7KM

ONLINE  
CODE:

**3840**

IN-STORE  
PLU:

**3840**

**TRY IN-STORE PICKUP TODAY**

**Preferred Store: MD - Laurel**

**Phone: (301) 617-8507**

[View Email on Web](#) | [Contact Us](#) | [Privacy Policy](#)

[Update Your Profile](#) | [Unsubscribe](#)

PLEASE DRINK RESPONSIBLY AND USE A DESIGNATED DRIVER. Not responsible for typographical errors, human error or supplier price increases. Products while supplies last. We reserve the right to limit quantities. **Drink Responsibly – Be 21**

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To ensure delivery to your inbox, please add [totalwine@email-totalwine.com](mailto:totalwine@email-totalwine.com) to your address book.

This email was sent to [evaca24@gmail.com](mailto:evaca24@gmail.com)

by Total Wine & More, 6600 Rockledge Drive, Suite 150; Bethesda, MD 20817

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**EXHIBIT A(3)**

To Declaration of Bart Thornburg

**Subject:** ⚡ FLASH WINE COUPON: 15% off Wine  
**Date:** Wednesday, May 19, 2021 at 11:40:00 AM Eastern Standard Time  
**From:** Total Wine & More  
**To:** evaca24@gmail.com



0 reward points | Select Member

**ENDS SUNDAY**

**WINERY DIRECT®**

# 15% OFF

Mix 6 or more 750ml and  
1.5L Winery Direct® wines

[Shop now](#)

A row of seven wine bottles of various colors and labels, including brands like Carson River, Investi, Cloud Break, Buttercream, Radius, and Pinot Grigio, set against a background of rippling blue water.



**WINERY DIRECT® COUPON | ONE-TIME USE**

Valid in-store and online | Valid 05/19/2021 - 05/23/2021

WINERY DIRECT®

*Look for  
these signs  
and save*

**15% OFF WINE**

**Save 15% when you mix 6 or more 750ml and 1.5L Winery Direct® wines.**

**Excludes items with prices ending in 7.** Cannot be combined with any other Total Wine & More wine coupon or discount. Valid on 750ml and 1.5L Winery Direct® wines. Coupon valid in Laurel, MD only. Valid in-store and online. Not valid on previous purchases. Offer valid through 05/23/2021. Must present coupon at time of purchase. Offer intended for people of legal drinking age only. **Drink responsibly — be 21.**



5134A0KDY7KM

ONLINE  
CODE:

**5134**

IN-STORE  
PLU:

**5134**

**DELIVERY | CURBSIDE PICKUP**

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Member #: 8971308684508

Preferred Store: MD - Laurel. PLEASE DRINK RESPONSIBLY AND USE A DESIGNATED DRIVER. Not responsible for typographical errors, human error or supplier price increases. Products while supplies last. We reserve the right to limit quantities. Drink Responsibly – Be 21. Corridor Fine Wine is independently owned and operated. This email was sent to evaca24@gmail.com by Total Wine & More, 6600 Rockledge Drive, Suite 150; Bethesda, MD 20817. Total Wine & More is a registered trademark of Retail Services & Systems, Inc. ©2021 Retail Services & Systems, Inc. All rights reserved. [View Email on Web](#)

**EXHIBIT A(4)**

To Declaration of Bart Thornburg



**Subject:** Ends Soon: 50% off Winery Direct® wine  
**Date:** Monday, November 22, 2021 at 4:27:00 PM Eastern Standard Time  
**From:** Total Wine & More  
**To:** evaca24@gmail.com



0 reward points | Select Member

# Don't forget to save and redeem offers just for you!



## 50% off Winery Direct® wine

Valid through 11/28/2021

Save 50% on one bottle of Winery Direct® wine up to \$29.99

Get Offer



## 20% off Wine



Valid through 11/28/2021

Save 20% when you mix 6 or more bottles of Winery Direct® wine

Get Offer



### 25% off Glassware & Accessories

Valid through 11/28/2021

Save 25% on Glassware & Accessories

Get Offer



Open the Total Wine App or go to [TotalWine.com](https://TotalWine.com) to save and redeem all your offers.



#### SIGN IN

to browse your personalized offers



#### SAVE OFFER

to automatically add offer to your account



#### CHECKOUT AND SAVE

saved offers will apply to next qualifying purchase

Get My Offers

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Member #: 8971308684508

Preferred Store: MD - Laurel. PLEASE DRINK RESPONSIBLY AND USE A DESIGNATED DRIVER. Not responsible for typographical errors, human error or supplier price increases. Products while supplies last. We reserve the right to limit quantities. Drink Responsibly – Be 21. Corridor Fine Wine is independently owned and operated. This email was sent to evaca24@gmail.com by Total Wine & More, 6600 Rockledge Drive, Suite 150; Bethesda, MD 20817. Total Wine & More is a registered trademark of Retail Services & Systems, Inc.© 2021 Retail Services & Systems, Inc. All rights reserved. [View Email on Web](#)

**EXHIBIT A(5)**

To Declaration of Bart Thornburg

**Subject:** FLASH SALE: 20% Off Wine + More Offers Just for You!

**Date:** Monday, November 29, 2021 at 1:34:44 PM Eastern Standard Time

**From:** Total Wine & More

**To:** evaca24@gmail.com



0 reward points

Select Member

# Just for you. Offers you'll



## FLASH SALE: 20% Off Wine

Valid through 11/30/2021

2 Days Only! Save 20% when you mix 3 or more 750ml and 1.5L Winery Direct® Wines.

Get Offer



## FLASH SALE: 10% Off Spirits

Valid through 11/30/2021

2 Days Only! Save 10% on your purchase of 750ml or larger Spirits Direct® spirits

Get Offer



### 50% off Winery Direct® wine

Valid through 12/12/2021

Save 50% on one bottle of Winery Direct® Wine with retail value up to \$39.99

Get Offer



### 25% off Sparkling Wine & Champagne

Valid through 12/12/2021

Save 25% on 750ml and 1.5L Winery Direct® Sparkling Wine & Champagne \$9.99 and above

Get Offer



Open the Total Wine App or go to [TotalWine.com](https://TotalWine.com) to save and redeem all your offers.



**SIGN IN**

to browse your  
personalized  
offers



**SAVE OFFER**

to automatically  
add offer to your  
account



**CHECKOUT AND SAVE**

saved offers will apply  
to next qualifying  
purchase

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